

JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Report

TO: Members of the Judicial Council

FROM: Traffic Advisory Committee
Hon. John Vernon Meigs, Chair
Courtney Tucker, Senior Court Services Analyst, 415-865-7611,
courtney.tucker@jud.ca.gov

DATE: August 28, 2003

SUBJECT: Traffic: Instructions on Appeal for Infractions (revise form TR-150)
(Action Required)

Issue Statement

Certain language in the *Instructions on Appeal Procedures for Infractions* (Form TR-150) may cause confusion between requirements for the filing of particular documents on appeal, which is mandatory, and the use of Judicial Council forms to file such documents, which is discretionary. The proposed revisions clarify that use of forms TR-155 and TR-160 is recommended but not required.

Recommendation

The Traffic Advisory Committee recommends that the Judicial Council, effective January 1, 2004, revise form TR-150 to clarify the procedures that apply to appeals for traffic infractions.

The text of the revised form TR-150 is attached at pages 3–4. The current version of the form is attached at pages 5–6.

Rationale for Recommendation

Background

It has come to the attention of the Traffic Advisory Committee that some language in form TR-150 may cause confusion between requirements in rules 101–108 and 180–191 of the California Rules of Court for the filing of certain documents on appeal, which is mandatory, and the use of council forms to file such documents, which is discretionary. In particular, because the names of documents referenced in the form are italicized they are likely to be mistaken for titles of council forms. Similarly, because the document names are italicized, there is a possibility of confusing the requirements for filing the referenced documents with requirements to use the corresponding council forms. The proposed revisions remove the italics and amend the language to clarify that the use of the relevant council forms is

recommended but not required. Additional changes based on comments received are made to clarify related procedures for appeals of traffic infractions.

Clarification of form TR-150

Revisions of form TR-150 are recommended by the committee to clarify the procedures that apply to appeals for traffic infractions. The proposal includes the following changes:

1. Removes italics from references to “Abandonment of Appeal,” “Engrossed Statement on Appeal,” “Notice of Appeal,” “Notice of Filing of Reporter’s Transcript,” “Proposed Statement,” and “Proposed Statement on Appeal,” to clarify that procedural requirements apply to the specific document and that use of the related Judicial Council form is recommended but not required;
2. Clarifies in section 3 that an appellant must file a Notice of Appeal with the clerk within 30 calendar days after the rendition of judgment, usually the date of sentencing;
3. Revises subsection 4.a to clarify that in most cases a Proposed Statement is necessary to provide a complete record on appeal and that to submit a Proposed Statement, an appellant must file it within 15 days after filing a Notice of Appeal. Form TR-160, *Proposed Statement on Appeal*, is recommended;
4. Clarifies in subsection 4.a.2 that a Proposed Statement should contain either an official transcript or a statement of evidence or trial procedures relevant to the grounds of appeal;
5. Revises subsection 4.a.2 to clarify the proper use of official and recorded transcripts;
6. Clarifies in subsection 4.b the procedure for preparing a Proposed Statement and Settled Statement;
7. Revises subsection 4.c to clarify that a Proposed Statement must be served either in person or by mail to the district attorney or city attorney;
8. Deletes subsection 4.d due to similar instructions added to subsection 4.a.2; and
9. Clarifies in section 8 that form TR-165, *Abandonment of Appeal*, is recommended for use when filing such a request.

Alternative Actions Considered

None.

Comments From Interested Parties

The proposed form revision was circulated for statewide comment as Item SPR03-63. Two of the five commentators agreed with the proposed changes. Three commentators agreed with the proposed changes only if modified. A chart listing the comments and the committee’s responses is attached at pages 7–13.

Implementation Requirements and Costs

Courts that provide a copy of the form to appellants will need to replace copies of the previous version. The fiscal impact is negligible.

Attachments

INSTRUCTIONS ON APPEAL PROCEDURES FOR INFRACTIONS

The following information will assist you with the general guidelines on appeal procedures. It is not intended to be comprehensive in nature, but to act as an overview. You are advised to thoroughly read California Rules of Court, rules 101 through 108 and rules 180 through 191. The court clerks cannot assist you. You should direct any questions you have to an attorney of your own choosing.

1. NATURE OF AN APPEAL

A party may appeal an unfavorable decision made in the trial court to the Appellate Division of the Superior Court. The appeal must be directed towards errors of law only. An appeal is not a retrial, and you will not be permitted to introduce new evidence.

2. PARTIES

The party filing the appeal is called the APPELLANT. The party against whom the appeal is brought (People of the State of California) is called the RESPONDENT.

3. NOTICE OF APPEAL

You must file your *Notice of Appeal* (form TR-155) with the clerk of the trial court within 30 CALENDAR DAYS after the date of sentencing. (Cal. Rules of Court, rule 182.) No extension of this time limit is allowed.

4. PROPOSED STATEMENT

- a. WITHIN 15 DAYS after filing the *Notice of Appeal*, you should file a *Proposed Statement on Appeal* (form TR-160). (Cal. Rules of Court, rule 184(d).) The *Proposed Statement* should contain all of the following:
 - (1) Grounds of appeal—a statement of the legal errors you believe were committed by the trial court. (Cal. Rules of Court, rule 184(b).)
 - (2) A statement of the evidence or trial procedures relevant to each of your grounds of appeal. (Cal. Rules of Court, rule 184(b).)

NOTICE: The filing of a *Proposed Statement* is required in order to prepare a settled statement. Although it is technically possible for an appeal to proceed in the absence of a settled statement, as a practical matter in almost all cases such a statement will be necessary for the Appellate Division to meaningfully review the appeal. The proposed statement must be filed with the clerk of the trial court.

- b. If you have decided to proceed with your appeal by way of a settled statement, complete the attached form according to the above. The document should be TYPED if possible. If a transcript is not available, a settled statement is necessary.
- c. In addition to filing the original *Proposed Statement* with the court, a copy of your *Proposed Statement* must be mailed to the district attorney or city attorney where the case was tried.
- d. You may request and pay for a certified transcript.

5. SETTLING THE PROPOSED STATEMENT

- a. The District Attorney/City Attorney has the right to file proposed amendments to your *Proposed Statement* within 15 days after it is filed. (Cal. Rules of Court, rule 185.) After the District Attorney/City Attorney has filed proposed amendments, or the time for filing has passed, a hearing will be set by the clerk before the judge who decided your case for the purpose of settling the *Proposed Statement*. (Cal. Rules of Court, rule 187.)
- b. The trial judge may correct, alter, or rewrite the statement so that it fairly and truly sets forth the evidence and proceedings, and may direct you to prepare a revised statement for his or her signature. However, your statement of grounds of appeal cannot be eliminated from the settled statement. (Cal. Rules of Court, rule 187.)
- c. After the revised statement is prepared, the judge will certify to its correctness.

6. TRANSFER OF APPEAL

- a. After a record of the trial court's proceedings has been prepared, it will be sent to the Appellate Division of the Superior Court. The Superior Court will then mail you a notice stating the date your opening brief is due. You must file an opening brief by the date set by the court. Failure to do so may result in the dismissal of your appeal. (Cal. Rules of Court, rule 190.)
- b. The preparation and filing of briefs is governed by California Rules of Court, rule 105. You should read this rule thoroughly and comply with it accordingly.

(Continued on reverse)

6. c. If the District Attorney files a Respondent's Brief, you may file a reply brief; however, one is not required. (Cal. Rules of Court, rule 105(a).)

7. PAYMENT OF YOUR FINE

The filing of an appeal does NOT postpone the payment of your fine or any other condition of the sentence. If the fine is not paid by the date or any condition ordered by the court is not met, a warrant may be issued for your arrest or a civil collections process may be instituted against you. (Pen. Code, § 1467.)

8. ABANDONMENT OF APPEAL

Should you decide not to proceed with your appeal, you must file an *Abandonment of Appeal* (form TR-165).

TIME CHART ON APPEALS OF INFRACTIONS

Document or Proceeding	Time Limitations
<i>Notice of Appeal</i> (form TR-155)	Must be filed with the court clerk of the trial court within 30 days after rendition of judgment. (Cal. Rules of Court, rule 182.)
Appellant's <i>Proposed Statement on Appeal</i> (form TR-160)	Must be served on respondent and filed with the clerk of the trial court within 15 days after <i>Notice of Appeal</i> is filed. (Cal. Rules of Court, rule 184(d).)
Transcript on appeal (<i>optional</i>)	If mentioned in the <i>Proposed Statement on Appeal</i> , Reporter's Transcript must be filed within 15 days after filing of the <i>Proposed Statement</i> , or any lawful extension thereof. (Cal. Rules of Court, rule 184(d).)
Respondent's amendments to the <i>Proposed Statement on Appeal</i> or Reporter's Transcript	Must be served and filed within 15 days after service of a copy of the <i>Proposed Statement on Appeal</i> or <i>Notice of Filing of Reporter's Transcript</i> . (Cal. Rules of Court, rule 185.)
Hearing on settlement of <i>Proposed Statement on Appeal</i> or Reporter's Transcript	The trial judge shall set a hearing to settle the <i>Proposed Statement on Appeal</i> or Reporter's Transcript on the court's calendar that will allow at least 5 days' notice to all parties. (Cal. Rules of Court, rule 187.)
<i>Engrossed Statement on Appeal</i>	Must be presented to the judge for certification within 5 days after settlement, or any lawful extension thereof. (Cal. Rules of Court, rule 187.)
Certification by judge	No time limit. Ordinarily completed upon receipt of the <i>Engrossed Statement on Appeal</i> , or at the conclusion of the hearing on settlement, if engrossment not ordered. (Cal. Rules of Court, rule 187.)
Extension of time (<i>optional</i>)	By the trial court: up to 15 days for the doing of any act except the filing of the <i>Notice of Appeal</i> . (Cal. Rules of Court, rule 186(a).) By the Superior Court Appellate Division: same as above except no time limit. (Cal. Rules of Court, rule 186(a).)
Relief from default	The Superior Court Appellate Division may for good cause relieve a party from a default, except for failure to give timely <i>Notice of Appeal</i> . (Cal. Rules of Court, rule 183(b).)
Transmittal of the record on appeal	By the clerk immediately after the appeal record has been perfected. (Cal. Rules of Court, rule 183(b).)

INSTRUCTIONS ON APPEAL PROCEDURES FOR INFRACTIONS

The following information will assist you with the general guidelines on appeal procedures. It is not intended to be comprehensive in nature, but to act as an overview. You are advised to thoroughly read the California Rules of Court, rules 101-108 and rules 180-191. The court clerks cannot assist you. You should direct any questions you have to an attorney of your own choosing.

1. NATURE OF AN APPEAL

A party may appeal an unfavorable decision made in the trial court to the appellate division of the superior court. The appeal must be directed toward errors of law only. An appeal is not a retrial, and you will not be permitted to introduce *new* evidence.

2. PARTIES

The party filing the appeal is called the APPELLANT. The party against whom the appeal is brought (People of the State of California) is called the RESPONDENT.

3. NOTICE OF APPEAL

If you wish to appeal, you must file your Notice of Appeal with the clerk of the trial court within 30 CALENDAR DAYS after the rendition of the judgment (usually the date of sentencing). (Cal. Rules of Court, rule 182.) No extension of this time limit is allowed. Form TR-155, *Notice of Appeal*, is recommended for use in filing the notice.

4. PROPOSED STATEMENT

- a. In most cases you must prepare a Proposed Statement to provide a complete record on appeal. To submit a Proposed Statement, you must file it within 15 days after filing the Notice of Appeal. Form TR-160, *Proposed Statement on Appeal*, is recommended. (Cal. Rules of Court, rule 184(d).) The Proposed Statement should contain all of the following:
 - (1) Grounds of appeal—a statement of the legal errors you believe were committed by the trial court. (Cal. Rules of Court, rule 184(b).)
 - (2) An official transcript or a statement of the evidence or trial procedures relevant to each of your grounds of appeal. (Cal. Rules of Court, rule 184(b).) If your trial was recorded, you may obtain a copy of the recording and produce your own summary or transcript. In some counties, a certified transcript of a recorded trial may be available. If an official court reporter's transcript is available, you may use a certified copy of the reporter's transcript.

NOTICE: The filing of a Proposed Statement is required in order to prepare a Settled Statement. Although it is technically possible for an appeal to proceed in the absence of a Settled Statement, as a practical matter in almost all cases such a statement will be necessary for the appellate division to meaningfully review the appeal. The Proposed Statement must be filed with the clerk of the trial court.

- b. If you proceed with your appeal by way of a Settled Statement, you may either complete form TR-160 or prepare your own Proposed Statement. The document should be TYPED if possible. If an official transcript is not available, your Proposed Statement must include a statement of the evidence or trial procedures. (See section 5 below.)
- c. In addition to filing the original Proposed Statement with the court, a copy of your Proposed Statement must be served in person or by mail to the district attorney or city attorney where the case was tried.

5. SETTLING THE PROPOSED STATEMENT

- a. The district attorney or city attorney has the right to file proposed amendments to your Proposed Statement within 15 days after it is filed. (Cal. Rules of Court, rule 185.) After the district attorney or city attorney has filed proposed amendments or the time for filing has passed, a hearing will be set by the clerk before the judge who decided your case for the purpose of settling the Proposed Statement. (Cal. Rules of Court, rule 187.)
- b. The trial judge may correct, alter, or rewrite the statement so that it fairly and truly sets forth the evidence and proceedings and may direct you to prepare a revised statement for his or her signature. However, your statement of grounds of appeal cannot be eliminated from the Settled Statement. (Cal. Rules of Court, rule 187.)
- c. After the revised statement is prepared, the judge will certify to its correctness.

6. TRANSFER OF APPEAL

- a. After a record of the trial court's proceedings has been prepared, it will be sent to the appellate division of the superior court. The superior court will then mail you a notice stating the date your opening brief is due. You must file an opening brief by the date set by the court. Failure to do so may result in the dismissal of your appeal. (Cal. Rules of Court, rule 190.)
- b. The preparation and filing of briefs is governed by California Rules of Court, rule 105. You should read this rule thoroughly and comply with it.

(Continued on reverse)

6. c. If the district attorney files a respondent's brief, you may file a reply brief; however, one is not required. (Cal. Rules of Court, rule 105(a).)

7. PAYMENT OF YOUR FINE

The filing of an appeal does NOT postpone the payment of your fine or any other condition of the sentence. If the fine is not paid by the date specified or any condition ordered by the court is not met, a warrant may be issued for your arrest or a civil collections process may be instituted against you. (Pen. Code, § 1467.)

8. ABANDONMENT OF APPEAL

Should you decide not to proceed with your appeal, you must file an Abandonment of Appeal. Form TR-165, *Abandonment of Appeal*, is recommended for use in filing such a request with the court.

TIME CHART ON APPEALS OF INFRACTIONS

Document or Proceeding	Time Limitations
Notice of Appeal	Must be filed with the court clerk of the trial court within 30 days after rendition of judgment. (Cal. Rules of Court, rule 182.)
Appellant's Proposed Statement on Appeal	Must be served on respondent and filed with the clerk of the trial court within 15 days after the Notice of Appeal is filed. (Cal. Rules of Court, rule 184(d).)
Transcript on appeal (<i>optional</i>)	If mentioned in the Proposed Statement on Appeal, a reporter's transcript must be filed within 15 days after filing of the Proposed Statement, or any lawful extension thereof. (Cal. Rules of Court, rule 184(d).)
Respondent's amendments to the Proposed Statement on Appeal or reporter's transcript	Must be served and filed within 15 days after service of a copy of the Proposed Statement on Appeal or Notice of Filing of Reporter's Transcript. (Cal. Rules of Court, rule 185.)
Hearing on settlement of Proposed Statement on Appeal or reporter's transcript	The trial judge shall set a hearing to settle the Proposed Statement on Appeal or reporter's transcript on the court's calendar that will allow at least 5 days' notice to all parties. (Cal. Rules of Court, rule 187.)
Engrossed Statement on Appeal	Must be presented to the judge for certification within 5 days after settlement, or any lawful extension thereof. (Cal. Rules of Court, rule 187.)
Certification by judge	No time limit. Ordinarily completed upon receipt of the Engrossed Statement on Appeal or at the conclusion of the hearing on settlement, if engrossment not ordered. (Cal. Rules of Court, rule 187.)
Extension of time (<i>optional</i>)	By the trial court: up to 15 days for the doing of any act except the filing of the Notice of Appeal. (Cal. Rules of Court, rule 186(a).) By the appellate division of the superior court: same as above except no time limit. (Cal. Rules of Court, rule 186(a).)
Relief from default	The appellate division of the superior court may for good cause relieve a party from a default, except for failure to give timely Notice of Appeal. (Cal. Rules of Court, rule 183(b).)
Transmittal of the record on appeal	By the clerk immediately after the appeal record has been perfected. (Cal. Rules of Court, rule 183(b).)

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Traffic: Instructions on Appeal for Infractions
(revise form TR-150)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Mr. Robert Gerard President Orange County Bar Association	A	Y	None.	None.
2.	Hannah Inouye Manager Superior Court of California, County of Los Angeles	AM	N	<p>1. Recommends under “3. NOTICE OF APPEAL,” in the last sentence changing “Form TR-150” to “TR-155” to reflect the appropriate form number.</p> <p>2. Recommends in “PROPOSED STATEMENT” for the first sentence in subsection 4a, changing “must” to “may” or “should,” since without the change, the language can be construed to mean you must file a proposed statement in order to appeal. This would be contrary to Cal. Rules of Court, rule 183(b).</p> <p>3. Suggests changing subsection 4b to read as follows: “If you have decided to proceed with your appeal by way of a Settled Statement, you can use Form TR-160 or prepare your own statement according to the above. The document should be TYPED if possible. If an official transcript is not available, it is required that your proposed statement include a statement of the evidence or trial procedures. (See section 5 below.)”</p>	<p>1. Agree.</p> <p>2. The instructions will be clarified by replacing the first sentence of subsection 4a with the following: “ In most cases you must prepare a Proposed Statement to provide a complete record on appeal. To submit a Proposed Statement, you must file it within 15 days after filing the Notice of Appeal.”</p> <p>3. Agree. The instructions will be clarified by adding the following to subsection 4b: “If you proceed with your appeal by way of a Settled Statement, you may either complete form TR-160 or prepare your own Proposed Statement. The document should be TYPED if possible. If an official transcript is not available, your Proposed Statement must include a statement of the evidence or trial procedures. (See section 5 below.)”</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>4. At subsection 4d, suggests deleting the language “If the proceeding is recorded” and substituting the following: “If the proceeding is officially recorded”. Some proceedings are recorded for the convenience of the judicial officer or for a limited purpose and are not necessarily an official record.</p> <p>5. Recommends under “TIME CHART ON APPEALS OF INFRACTIONS,” at “Relief from default”, changing “rule 183(b)” to “rule 186(b),” which is the appropriate reference to the rules for relief from default.</p>	<p>4. Subsection 4d will be deleted and an instruction will be added to subsection 4.a.2 as follows: “If your trial was recorded, you may obtain a copy of the recording and produce your own summary or transcript. In some counties, a certified transcript of a recorded trial may be available. If an official Court Reporter’s transcript is available you may use a certified copy of the reporter’s transcript.”</p> <p>5. Agree.</p>
3.	Ms. Glenda Mart Court Supervisor Legal Process Division Superior Court of California, County of Calaveras	A	N	Inquires whether forms TR-155 and TR-160 will still be used, have new numbers, or be optional. There is no form number on the proposed time chart.	Forms TR-155 and TR-160 will continue to be optional forms that are recommended for use when filing a Notice of Appeal and Appellant’s Proposed Statement on Appeal respectively.
4.	Hon. Vincent J. O'Neill Appellate Division Presiding Judge Superior Court of California, County of Ventura	AM	N	1. In subsection 4.a.2 “statement of evidence” seems vague. Suggests: “A transcript or summary of the testimony and any other evidence or trial procedures relevant to each of your grounds of appeal. If an official court reporter was present at your trial, you may order and pay for a certified transcript. If your trial was recorded, you may obtain a copy of the recording and produce your own summary or transcript. In some counties, you may request and pay	1. In order to track the express language of rule 184(b), the instructions in subsection 4.a.2 will be amended as follows: “An official transcript or a statement of the evidence or trial procedures relevant to each of your grounds of appeal. (Cal Rules of Court, rule 184(b).) If your trial was recorded, you may obtain a copy of the recording and produce your own summary

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				<p>for a certified transcript of a recorded trial. (Cal. Rules of Court, rule 184(b)).</p> <p>2. Subsection 4b is unclear because it mentions “settled statement” when that phrase has not been defined. Suggests: “You may use the attached form (TR-160) to complete your Proposed Statement. Your Proposed Statement should be TYPED if possible. If a transcript is not available, a Settled Statement is necessary.” The Rules of Court only allow an appellant to proceed by transcript instead of a proposed statement when an official court reporter was present at the trial, but the practice in Ventura County is to require a proposed statement even when it includes a certified reporter’s transcript of a recorded trial.</p> <p>3. Recommends deletion of subsection 4d due to change to subsection 4.a.2 recommended above.</p>	<p>or transcript. In some counties, a certified transcript of a recorded trial may be available. If an official Court Reporter’s transcript is available you may use a certified copy of the reporter’s transcript.”</p> <p>2. The instructions will be clarified by replacing subsection 4b with the following: “If you proceed with your appeal by way of a Settled Statement, you may either complete form TR-160 or prepare your own Proposed Statement. The document should be TYPED if possible. If an official transcript is not available, your Proposed Statement must include a statement of the evidence or trial procedures. (See section 5 below.)”</p> <p>3. Agree.</p>
5.	Mr. Laurence M. Sarnoff Assistant Public Defender Los Angeles County Public Defender	AM	N	While form TR-160, <i>Proposed Statement on Appeal</i> , and the accompanying instructions, form TR-150, are very good and useful, there are, however, a few problems carried over from the previous form.	

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Traffic: Instructions on Appeal for Infractions
(revise form TR-150)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>1. In subsection 4a there is a conflict in the instructions themselves. The instructions state, "In order to appeal, you must file a Proposed Statement." However, in the box following subsection 4b, the instructions state that: "it is technically possible for an appeal to proceed in the absence of a Settled Statement." The second statement is correct, and the first is not. However, as stated in the box, absent a settled statement, most appeals will fail. Suggests that subsection 4a be modified to state, "If you wish to appeal, in most cases you should file a Proposed Statement . . ."</p> <p>2. In subsection 4b of the instructions, as proposed, it is stated, "If a transcript is not available, a Settled Statement is necessary." The implication is that if a transcript is available, then a settled statement is not necessary. This is, however, in error. Whether the facts in support of the appeal are shown by a transcript or by a narrative statement of facts, the appellant still must file a proposed statement, and the court must settle that statement. (Cal. Rules of Ct., rule 184.) If no such proposed statement is filed, then the record will not include the transcript or any other factual statement: "If the appellant fails to serve and file a proposed statement on appeal . . . the right to have a statement settled and certified shall forthwith terminate." (Id., rule 184(d).) The statement in the instructions also seems to imply that if a transcript is available, it must be obtained</p>	<p>1. The instructions will be clarified by replacing the first sentence of subsection 4a with the following: " In most cases you must prepare a Proposed Statement to provide a complete record on appeal. To submit a Proposed Statement, you must file it within 15 days after filing the Notice of Appeal."</p> <p>2. The instructions will be clarified by adding the following to subsection 4b: "If you proceed with your appeal by way of a Settled Statement, you may either complete form TR-160 or prepare your own Proposed Statement. The document should be TYPED if possible. If an official transcript is not available, your Proposed Statement must include a statement of the evidence or trial procedures. (See section 5 below.)"</p>

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				<p>and used. This is incorrect. Even if the proceedings were reported, an appellant may choose instead to proceed by way of a narrative statement. Thus, what should instead be stated at this point is: "If a transcript is not made part of the proposed statement, then a narrative statement of facts must be included in the proposed statement."</p> <p>3. Subsection 4c states that ". . . a copy of your Proposed Statement must be mailed to the district attorney or city attorney" This is incorrect. The rules provide only that the proposed statement must be "served" upon the prosecutor. (Cal. Rules of Ct., rule 184(d).) Service includes personal service, as well as mail, and personal service need not be by a non-party. (Code Civ. Proc. § 1011, compare § 1013a.) Given the cost of mailing, and the necessity of involving third persons in service, an appellant may prefer personal service, and that option should not be ignored. We would additionally suggest that a form proof of personal service be included as well as the form proof of mail service.</p> <p>4. Neither subsection 4d or form TR-160, <i>Proposed Statement on Appeal</i>, correctly reflect the application of the rules when an electronic recording is the available record, which is becoming a very common means of preserving testimony in infraction matters. In subsection 4d it is stated: "If the proceeding is recorded, you may request and pay for a certified</p>	<p>3. Agree. The instructions in subsection 4 will be clarified by stating that: "The Proposed Statement may be served in person or by mail to the district attorney or city attorney." form, TR-160, <i>Proposed Statement on Appeal</i>, will be circulated for comment during the next cycle with a proposal to add a proof of personal service.</p> <p>4. Agree in part. Rule 187.5(m) allows a court to order full verbatim transcripts of recorded proceedings. When a court makes that election, a certified copy of the recording may be available and the provisions of rule 187.5 are inapplicable. Accordingly, subsection 4d will be deleted and an instruction will be added to</p>

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				<p>transcript." While that may be true if the proceedings were reported (rather than "recorded") by a Certified Court Reporter, it is not true if there was an electronic recording. If there was a recording, that recording will be provided to the appellant without cost. (Cal. Rules of Ct., rule 187.5(c)(4).) The appellant may use that recording to prepare a statement, or may transcribe it. (Cal. Rules of Ct., rule 187.5(d)(2).) Comments further that form TR-160 states: "The above-entitled matter was reported by an official court reporter or electronically recorded and appellant intends to file a reporter's transcript of the evidence and proceedings so reported and to make the transcript appellant's statement on appeal." ("Statement of Evidence," Part 2.) Again, there is no "reporter's transcript" when proceedings are electronically recorded. Instead, the recording itself is provided to the appellant, to be used as the appellant sees fit. Finally, comments that subsection 4d states that the appellant may "request and pay for" a transcript. However, this is not correct with respect to indigents. Penal Code section 19.7 states that "all provisions of law relating to misdemeanors shall apply to infractions" It is well-settled that an indigent appellant in a misdemeanor case is entitled to the production of a reporter's transcript without cost. (<i>In re Armstrong</i> (1981) 126 Cal.App.3d 565; <i>Eyrich v. Municipal Court</i> (1985) 165 Cal.App.3d 1138.) This same rule must apply to appellants in infraction matters as well. Accordingly, the following sentence</p>	<p>subsection 4.a.2 as follows: "If your trial was recorded, you may obtain a copy of the recording and produce your own summary or transcript. In some counties, a certified transcript of a recorded trial may be available. If an official Court Reporter's transcript is available, you may use a certified copy of the reporter's transcript." Form, TR-160, <i>Proposed Statement on Appeal</i>, will be circulated for comment during the next cycle with a proposal to revise the instructions regarding electronic recordings.</p>

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				<p>should be added: "If you are financially unable to pay for a transcript, you may request the court to order a transcript prepared without cost to you."</p> <p>5. In subsection 7, although the mere filing of an appeal does not stay a fine payment, the trial court can release the appellant from such penal obligations either upon the posting of bail (to which the appellant is entitled by law) or upon his own recognizance. This possibility should be noted in this section, with advice to request orders for bail or own recognizance from the trial court.</p>	<p>5. Disagree. General authorities relating to bail and release on own recognizance are not necessarily controlling for notice to appear citations and fines as "bail" in traffic offenses, which are expressly controlled by relevant statutes such as Penal Code 1269b and Vehicle Code sections 40310, 40512.5, 40519, and 42003. (See <i>McDermott v. Superior Court</i> (1972) 6 Cal.3d 693, 696 ["Bail for traffic law offenses is, generally, in effect a fine and is employed more for the purpose of punishment and judicial convenience than insuring that the trial processes will take place."].)</p>